

WHAT'S THE TERRITORY GOING TO DO WHEN RENT COMES 'ROUN'?

The Territory will owe \$5995 in rentals when the next Legislature meets. The startling fact that only \$100 remains of the \$5000 appropriation for public office rentals made by the last Legislature was discovered by Acting Governor Mott-Smith this morning. At the same time he learned that the rents will continue at the rate of \$665 per month up to the time the next legislature convenes, in February.

The appropriation was made to cover the rentals for the department of public instruction, the supreme court, circuit courts, tax office and registrar of conveyances, which were removed from the judiciary building to permit that

structure to be remodeled. The remodeling is not yet finished, and is not likely to be completed sufficiently to permit the offices to move back before legislature meets again. Just what is to be done about it is undecided. In fact, says Mott-Smith, about the only thing that can be done is to beg for an extension of time for rent payments. The landlords to whom the Territory's officials must appeal for leniency include the Elks lodge, Yokohama Specie Bank, Wilder Estate, Brewer & Co. and the Hawaiian Board of Missions. Unless these people are willing to trust the Territory to the extent of \$5995 the government offices will be compelled to move to new quarters.

RAPID TRANSIT IS LOSER

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favor, was made on an agreed submission of facts, and was not the result of an action at law between the parties opposed, and for that reason judgment can not be given.

Up to City and County. In other words, it explains that the decision against the company was given merely as an interpretation of the Territorial law. Since it holds the Territorial statute to be constitutional and effective, the city and county are left only the responsibility of enforcing that regulation and compelling the company to do the paying. If the company fails to obey, the city and county may do the work and assess the company for it.

The attorney general and his assistants are highly elated over the outcome of the case. They say that it is possible the company, if it really desires to evade the law and avoid the actual work of paying for a longer period of time, may bring an individual case to prevent the city from undertaking the work, and losing in that may carry it on up to the United States Supreme Court on appeal. But if the Rapid Transit is sincere in its desire to do the right thing, they declare, it will not attempt such extreme measures, and will bow to the verdict of the Territory's Supreme Court and the statute.

The decision says: Substitution of Controversy—Judgment. Where, in a submission on agreed facts without action, the case presented is such that an enforceable judgment can not be entered, the proceedings should be dismissed.

SUPPLEMENTAL OPINION OF THE COURT BY ROBERTSON, C. J. Following the filing of the opinion in this case reported ante p. counsel for the railway company informally notified the court of the company's intention to take an appeal, and the question as to what form the judgment should take having arisen counsel for both parties were notified that they would be heard on the point. "The matter has been fully agreed orally and in briefs. Counsel for the government have taken the position that, upon several grounds which we will not stop to review in detail, no judgment can properly be entered in the case. Counsel for the railway company contend, first, that the submission should be regarded as having taken the place of a petition for a writ of mandamus, in which case the judgment should award a peremptory writ, and, second, and alternatively, that it may be regarded as a bill for an injunction, in which case the prayer for an injunction would be denied and the bill dismissed.

We think the submission was entered into by the parties without any thought as to the entry of a judgment in the case. It seems as though counsel had in mind only the obtaining of the views of the court on the questions stated in the submission. The case was argued and submitted for determination without any reference being made by counsel as to what judgment should be entered, and we must confess that in rendering our opinion we did not consider the point. Notwithstanding what was said in Bishop v. Judd, 4 Haw. 29, 32, in regard to the possibility of the statute providing for the submission of controversies without action being so used as to make the court an office of consultation, we fear that some laxity has entered into proceedings heretofore brought under the statute. It is clear that the statute contemplates the entry of an enforceable judgment (R. L. Sec. 1751) and we can not give our approval to the entry of a judgment that merely answers certain questions such as was done in the case of Rapid Transit Co. v. Tham Co., 13 Haw. 263.

There are several reasons why the submission should not be regarded as having taken the place of a bill for an injunction to prevent the paying of the portion of the street referred to by the government. The submission contained no allegation of any threat that unless the company should do the paying the government would do it at the company's expense; nor was there an allegation that the municipality had been notified that the municipality was about to proceed with the work with the intention of bringing suit against the company to recover the cost; the municipal officials were not made parties; and it is not likely that an injunction would have been sought against the Territory.

Nor can the submission be regarded as a proceeding for a writ of mandamus instituted by the Territory. In addition to the fact that the parties appear not to have contemplated the entry of a judgment, but only that the court would answer the questions propounded, the submission itself shows that the railway company assumed the position of plaintiff in the case. The concluding clause of the submission is as follows: "Wherefore, plaintiff and

defendants submit the matter for judgment."

An argument was advanced by counsel for the government to the effect that no judgment can be entered because the parties to the submission did not designate the nature of the judgment desired. The cases in other jurisdictions are in conflict on this point. See Woodruff v. People, 193 N. Y. 550; Williams v. Fredell County, 132 N. C. 507. The provisions of our statute perhaps are sufficient to authorize the entry of judgment without any prayer therefor by the parties if no obstacle intervenes. R. L. Secs. 1750, 1751. A prayer for judgment designating the nature of the judgment desired would undoubtedly conduce to certainty, but a ruling upon the necessity of such a prayer is, in our view, not required in this case.

For the reasons above assigned we hold that this submission can not be regarded as an injunction bill or a proceeding in mandamus, and that no enforceable judgment can be entered in the case. We also hold that because of the fact that such a judgment can not be entered the entire proceedings must be dismissed. It is so ordered.

D. L. Withington (Castle & Withington on the brief) for the Rapid Transit Co.; A. G. Smith, deputy attorney general, for the Territory and superintendent of public works; F. W. Milverton, deputy city and county attorney, filed a brief on behalf of the City and County of Honolulu.

The best way to mend a buttonhole, which is torn out, is to lay a piece of closely-woven tape back of it, sew in place, hem the old buttonhole to it, cut out and work a new buttonhole in its place.

When a button is torn out a small piece of tape is laid flat between the folds of the band and the ragged edges are hemmed to it and the button sewed to the tape.

WOOD RUMORS GROW STRONG

Army Officers Interested in Report of New Division Line-Up.

The announcement that Hawaii might soon be raised to division rank and that Major General Leonard Wood would come here as its commander, printed in yesterday's Bulletin from private Army advices from Washington, has caused no end of speculation in service circles here. Most of the officers who are in any way in touch with Army politics credit the rumor so far as it concerns Hawaii, but some of them are skeptical as to whether Panama will be grouped with this department in the new division. The Canal Zone, they say, is too far from Hawaii to be handled satisfactorily from headquarters here.

"If this grouping was made, and division headquarters placed in Honolulu, it would be all right for us," said Lieutenant Colonel Campbell, Adjutant General, this morning. "However, if it was the other way round, and headquarters were in Panama, we would be worse off than ever."

There are some "underground wireless" operators here who say, on the other hand, that General Wood wants the Philippine Division when he goes out of office as chief of staff, and that he is due to get it. They say that certainly not until several more regiments are sent here will this become a Major General's command.

JURY VACATION IN MAHUKA CASE

The jury in the Mahuka-site condemnation proceedings in Federal Court has been granted a further vacation, and will not be called now until 8:30 o'clock Tuesday morning. The preparation of instructions is requiring more time than had been expected.

Attorney Breckons this morning pleaded for still more time, declaring that it would be cruel to confine everyone in the case on the day that the bulletin of the Republican National Convention at Chicago were coming in. Judge Hale so far forgot his judicial dignity as to smile, but he declined to consider the request.

The sale of baseball pools in Hartford has grown to such an extent since the present baseball season started that at least a thousand pools are being sold in that city each week.

COUNTRY SCENE IN FORT STREET WINDOW

Leaving an impression something like that gained by gazing upon a green pasture in which well-fed cows are grazing, a window in Day's grocery is worth seeing. Lansing & Lambert have in this window a display of Alpine Milk, arranged in such a manner that it attracts the attention of almost everyone. The color of green grass and pictures of healthy, satisfied cows are the means which produce the effect.

Alpine Milk, made in California, is one of the standard brands, and its quality is due to the fact that it is made from the milk of cows that have the best of pasture. It is sold by all grocers, and Lansing & Lambert are the sole agents for the milk in Hawaii.

DANIEL KIKAHA PASSES AWAY

Daniel Kikaha, one of the best-known characters in Honolulu during the last twenty-five years, and who for the last ten years had served as bailiff in the Federal Court, died early this morning. Heart trouble is ascribed as the cause. Kikaha, who had a host of friends in the city, had been in ill health for nearly a year and was compelled to abandon his post in court last July. Since that time he has been gradually failing. The remains will be cremated.

JUVENILE BOSTONIANS TO TAKE ISLAND TOUR

Arrangements have been completed by Joel Cohen for an island tour for the Juvenile Bostonians. The young actresses, closing their successful engagement here tonight, leave next week for Maui, playing eight days there and three at Hilo, according to present plans, and on their return the company will open for a limited engagement at the Hawaiian Opera House.

The Juveniles have made many friends in Honolulu and the island tour, it is believed, will be a succession of triumphs.

The price of Ponoibot River salmon was higher last month than for a number of years past. Salmon was selling for 50 cents a pound at Bangor, Me., the high price being attributed to the backward season, the absence of the St. John River salmon and the fact that agents of the government fish hatchery are purchasing the fish for spawning purposes.

Charged with poisoning nine babies by putting oxalic acid in their milk, Winifred Ankers, a nurse, was placed on trial before Supreme Court Justice Scudder in Brooklyn.

Beachwalk

Is the Place To Dwell

HERE you will find everything that conduces to comfort among worthy neighbors and beautiful surroundings. On the carline a few minutes from the heart of the city, in the path of the trade winds from the mountains, and with the best bathing beach at your door.

If you are at all interested in Honolulu real estate, either from a homeseeker's view point or that of an investor, you should immediately make arrangements to meet our representative at beautiful **Beachwalk**.

Henry Waterhouse Trust Co.,
Sales Agent

JAMES GUILD HAS SEMI-ANNUAL SALE

Room must be made for new goods which will arrive within a few days at the James Guild store, and a semi-annual sale of house furnishing goods is being held. This is one of the newer mercantile establishments in the Islands, but it is rapidly forging ahead on account of the big values given in

merchandise. The store carries a big assortment of aluminum ware, some of the articles being illustrated in this issue of the Bulletin, and also the Vin-lav brand, which is sold so extensively in the States. It is everlasting, non-poisonous and easily cleaned. The store has free delivery to all parts of the city.

You must get the Bulletin to get the News.

At a meeting of the board of control of the Hawaiian Mutual Burial Association held yesterday, Article 4 of the by-laws was changed to read: Any person in good health, between the ages of one and ten years, may become a member of the association by paying a membership fee of \$2.50; between the ages of ten and thirty years, \$3.50; between thirty and forty, \$4.50; between forty and fifty, \$5.50; between fifty and sixty, \$6.50.

Tonight Is The Night

Hughes Musical Comedy Company

OPEN AT THE BIG COMFORTABLE

Bijou Theater

Presenting

The Speculator

Just as Staged on Successful Oriental Tour



CHORUS OF THE HUGHES COMEDY COMPANY
Pretty Girls Who Will Make the Musical Show Performances Popular.



THOSE LAUGH-MAKING COMEDIANS

One night show of almost two hours, chock-full of laughter-rousing jokes, songs, and catchy dances

Not an old show, but an original one, with some well-liked and familiar performers. Some of the features—Dutch and Jew comedian; Madam Lloyd; a singer; Fritzie Guy, "Some Dancer," and the "livest chorus ever."

Laughs, music and a plot—with more laughs.

Evening Prices - - Reserved seats, 50 cents; other seats, 30, 20 and 10 cents

Remember Tonight Is First Night

Doors Open at 7:45 o'clock